

SENATE BILL NO. 13

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Gardner, Dunleavy

Introduced: 1/21/15

Referred: Community and Regional Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting the state and municipalities from using assets to assist a federal
2 agency in collecting certain telephone records or electronic data without a warrant;
3 prohibiting the state from cooperating with a federal agency in collecting certain
4 telephone records or electronic data without a warrant; and providing for an effective
5 date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

8 (65) AS 29.35.081 (collection or use of telephone records or electronic
9 data obtained without a warrant).

10 * **Sec. 2.** AS 29.35 is amended by adding a new section to read:

11 **Sec. 29.35.081. Prohibition against cooperation with federal agencies**
12 **engaged in collection of telephone records or electronic data.** (a) A municipality or
13 an agent of a municipality may not

1 (1) assist, cooperate with, or participate with a federal agency in the
2 collection of

3 (A) electronic data under a federal statute, regulation, rule, or
4 order when the collection of electronic data is undertaken without a search
5 warrant that particularly describes the person, place, and thing to be searched
6 or seized; or

7 (B) telephone records under a federal statute, regulation, rule,
8 or order when the collection of the telephone records is undertaken without a
9 search warrant that particularly describes the person, place, and thing to be
10 searched or seized, or in another manner that is inconsistent with state law; or

11 (2) use, in a criminal investigation or prosecution, records or data that
12 are provided by a federal agency or an officer or employee of a federal agency that
13 were collected by the federal agency without a search warrant or in another manner
14 inconsistent with state law as described in (1) of this subsection.

15 (b) In this section, "electronic data" includes electronic mail and text
16 messages.

17 * **Sec. 3.** AS 44.99.040(a) is amended to read:

18 (a) A state or municipal agency may not use or authorize the use of an asset to
19 implement or aid in

20 (1) the implementation of a requirement of

21 (A) [(1)] an order of the President of the United States, a
22 federal regulation, or a law enacted by the United States Congress that is
23 applied to

24 (i) [(A)] infringe on a person's right, under the Second
25 Amendment to the Constitution of the United States, to keep and bear
26 arms;

27 (ii) [(B)] deny a person a right to due process, or a
28 protection of due process, that would otherwise be available to the
29 person under the Constitution of the State of Alaska or the Constitution
30 of the United States; or

31 (B) [(2)] P.L. 109-13, Division B (REAL ID Act of 2005);

1 **(2) the collection by a federal agency of electronic data without a**
 2 **search warrant; in this paragraph, "electronic data" includes electronic mail and**
 3 **text messages; or**

4 **(3) the collection by a federal agency of telephone records without**
 5 **a search warrant, unless the records are collected in a manner consistent with**
 6 **state law.**

7 * **Sec. 4.** AS 44.99 is amended by adding a new section to article 1 to read:

8 **Sec. 44.99.050. Prohibition against cooperation with federal agencies**
 9 **engaged in collection of telephone records or electronic data.** (a) The state or an
 10 agent of the state may not

11 (1) assist, cooperate with, or participate with a federal agency in the
 12 collection of

13 (A) electronic data under a federal statute, regulation, rule, or
 14 order when the collection of electronic data is undertaken without a search
 15 warrant that particularly describes the person, place, and thing to be searched
 16 or seized; or

17 (B) telephone records under a federal statute, regulation, rule,
 18 or order when the collection of the telephone records is undertaken without a
 19 search warrant that particularly describes the person, place, and thing to be
 20 searched or seized, or in another manner that is inconsistent with state law; or

21 (2) use, in a criminal investigation or prosecution, records or data that
 22 are provided by a federal agency or an officer or employee of a federal agency that
 23 were collected by the federal agency without a search warrant or in another manner
 24 inconsistent with state law as described in (1) of this subsection.

25 (b) In this section, "electronic data" includes electronic mail and text
 26 messages.

27 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).